

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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|-------------------------|---|-------------------------------|
| JOE THOMAS BELL, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. CIV-07-1251-R |
| |) | |
| DREW EDMONDSON, |) | |
| |) | |
| Respondent. |) | |

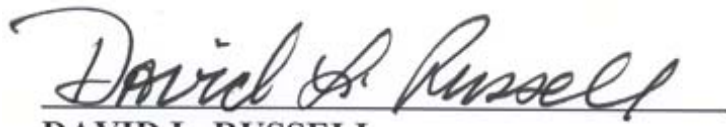
ORDER

Before the Court is the Report and Recommendation of United States Magistrate Judge Doyle W. Argo entered June 24, 2007. Doc. No. 14. Petitioner filed a “Motion to Object to Report and Recommendation” [Doc. No. 15] on June 30, 2008 and also filed an “Application for Certificate of Appealability for a Successive Writ” [Doc. No. 16] on July 7, 2008. Finally, Petitioner also sent a letter to the Court Clerk which was filed in the case on July 11, 2008. Doc. No. 17. By these pleadings and letter, Petitioner makes it clear that Petitioner wants to attack his 1996 conviction and sentence as enhanced by allegedly unconstitutional convictions in the 1988, 1989 and 1992 cases. Accordingly, and only for this reason, the Court rejects the construction of the petition herein by the Magistrate Judge as an attack on the 1988, 1989 and 1992 convictions and adopts the alternative construction considered by the Magistrate Judge that the petition is an attack on the conviction and sentence in the 1996 case as enhanced by the former convictions. As such, the petition herein is a second or successive petition challenging the 1996 conviction and sentence which

the Court has no jurisdiction to consider absent authorization by the Tenth Circuit as required by 28 U.S.C. § 2244.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge is REJECTED insofar as the Magistrate Judge construed the petition as an attack on the 1988, 1989 and 1992 convictions and recommended dismissal for lack of jurisdiction; the petition is construed as an attack on Petitioner's 1996 conviction and sentence as enhanced by the 1988, 1989 and 1992 convictions, which petition is successive and which this Court lacks jurisdiction to consider; and pursuant to 28 U.S.C. § 1631, the second or successive petition herein is TRANSFERRED to the Tenth Circuit Court of Appeals. In all other respects the Report and Recommendation of the Magistrate Judge is ADOPTED and Petitioner's motions [Doc. Nos. 10, 11, 12 and 13] are DENIED.

IT IS SO ORDERED this 17th day of July, 2008.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE